

Cass County Planning Commission Meeting
Thursday, December 17, 2015 at 7:00 a.m.
Cass County Highway Department Conference Room
1201 West Main Avenue in West Fargo
Agenda

Business Items:

1. Call to Order
2. Roll Call
3. Determination of a Quorum
4. Approve Meeting Minutes of October 22, 2015
5. New Business

A. Public Hearing Items:

Mapleton Junction Subdivision – A Minor subdivision in Section 9 of Mapleton Township

- B. By-Laws
- C. Planning Functions of Cass County
- D. Subdivision Fee Schedule
- E. Subdivision Enforcement
- F. K.R. Visto Industrial Addition

6. Old Business

- A. Cenex Pipeline Subdivision

7. Adjournment

**CASS COUNTY PLANNING COMMISSION
OCTOBER 22, 2015**

1. MEETING TO ORDER

A meeting of the Cass County Planning Commission was called to order on October 22, 2015, at 7:00 AM in the Highway Department Conference Room with members present as follows: Mark Brodshaug, Todd Ellig, David Gust, Ken Loughheed, Mary Scherling, and Mark Williams. Keith Monson, Melissa Sobolik, and Mark Wentz were absent. Also present were County Administrator Keith Berndt, County Planner Hali Durand, Mick Gee from Cenex Harvest States, Oly Olafson from Ulteig Engineering, Surveying and Consulting Services, and members of the public.

2. MINUTES, APPROVED

MOTION, passed

Mr. Gust moved and Mr. Brodshaug seconded to approve the minutes of the May 27, 2015 meeting as presented. Motion carried.

3. HAINE SUBDIVISION (Minor Subdivision), Final plat denied

Mr. Loughheed opened the public hearing.

Ms. Durand said an application for a Minor Subdivision (plat) was received by the Cass County Planning Office for approval of a tract of land located in a part of the Southeast Quarter of the Southwest Quarter of Section 2 in Amenia Township to plat two lots for the purpose of sale. The said tracts contain 9.54 acres of land, more or less.

Ms. Durand said the tract of land is being split in order to satisfy a mortgage company involved with the purchase of the land. The mortgage company placed the requirement due to both a house and a trailer home being located on the property. A surveyor assisted in the lot split to fulfill the township's requirement of a minimum two acre lot. The original boundaries of the lot will remain intact, and the mobile home will remain on the land at the insistence of the buyer.

Ms. Durand said she recommends the approval of the Haine Subdivision as it meets the goals and objectives of the Cass County Comprehensive Plan and the Cass County Subdivision Ordinance. She also recommends that there be no deed restriction as it is an existing parcel with no new boundaries and there are already two residences located on the property.

Ms. Durand said the County Sanitarian did an evaluation of the area where the trailer home is located. The septic system is not up to code and there is not enough drain field.

Mr. Gust said he is concerned that something could be built in the future with no deed restriction. Ms. Durand said two residences already exist on the property, so there would be no change from the current circumstances.

The public hearing was closed.

Mr. Brodshaug said he does not want to approve the plat without a deed restriction as there is no sufficient drain field for a two acre lot.

MOTION, passed

Mr. Brodshaug moved and Mr. Ellig seconded to deny the Final Plat for Haine Subdivision (Minor Subdivision). Motion carried.

4. CENEX PIPELINE SUBDIVISION (Minor Subdivision), Final plat approved

Mr. Loughheed opened the public hearing.

Ms. Durand said an application for a Minor Subdivision (plat) was received by the Cass County Planning Office for approval of a tract of land located in a portion of the Southeast Quarter of Section 9 in Raymond Township to plat one lot to develop a refined product storage facility/terminal. The said tract contains 65.965 acres of land, more or less.

Ms. Durand said the land use zoning is agricultural and will require a change of use to industrial with a conditional use permit through the township. Otherwise, the plat meets requirements for all agencies, and there is no need for a deed restriction. Ms. Durand sent notification to landowners within a two mile radius of the facility and received only one comment in return, which cited concerns already addressed at public meetings.

Ms. Durand said she recommends the approval of the Cenex Pipeline Subdivision as it meets the goals and objectives of the Cass County Comprehensive Plan, the Cass County Highway Access Plan, the Flood Damage Prevention Ordinance, and the Cass County Subdivision Ordinance.

Mr. Ellig asked if Raymond Township has chosen a position either for or against the facility and the use of the land. Mr. Gust said they have not met to formally speak on the matter, but there are general concerns about the access road currently being a dirt township road, concerns about re-zoning, and the fact that the general comprehensive plan for the township is agricultural and residential. Mr. Gust said the infrastructure in the area is not sufficient, and the site seems inappropriate for the intended use.

Ms. Scherling asked if the County Emergency Manager and Sheriff were consulted on the matter. Ms. Durand said the Emergency Manager was notified and he raised no concerns.

Mr. Gust read a letter from a concerned citizen of Raymond Township. The citizen listed increased truck traffic on County Road 22 as an issue as flying dust, gravel, and rocks from the road have been problematic in the past. Mr. Gee said other than during construction, there is no anticipation of increased truck traffic. Dust control measures could be taken by CHS during the construction phase to alleviate the issue for affected residents.

Ms. Scherling asked why the proposed site was chosen and not a site in or near an industrial park. Mr. Gee said the purpose of the facility is to connect NuStar and Cenex facilities and store excess product created during times of low demand so that it is

available during high demand times. Moving the site would require building two pipelines.

A citizen present for the public hearing asked why the access road is located off of the township road, as opposed to County Road 13. Mr. Gee said the access could be changed.

Mr. Ellig said moving the access road to County Road 13 solves issues raised with the use of the township road, and as previously stated there is no anticipated truck traffic. There will always be occasional and exceptional requests, which is why there are variances.

Ms. Durand said she understands the sentiments and concerns of citizens; however, sometimes the best course of action is to work with proposals and figure out how to best accommodate and address concerns.

A citizen present for the public hearing asked what safety measures are in place for the facility. Mr. Gee described several safety measures including polyethylene liners for the tanks, foam systems in case of fire, and the use of National Fire Protection Association (NFPA) standards in regards to the distance of the facility from properties and roads.

Mr. Williams asked on what authority the township would have to deny the request. Ms. Durand said the zoning is agricultural, not industrial. Otherwise the request meets all requirements.

Mr. Lougheed said there has been good discussion and commentary, but the commission must vote according to the confines of the subdivision ordinance.

The public hearing was closed.

MOTION, passed

Mr. Ellig moved and Mr. Williams seconded to approve the Final Plat for Cenex Pipeline Subdivision (Minor Subdivision) on the condition that the access road be moved to County Road 13. On roll call vote the motion carried with Mr. Lougheed, Mr. Ellig, Mr. Brodshaug, and Mr. Williams voting “Yes”; Mr. Gust and Ms. Scherling voting “No”.

5. AGENDA ITEMS POSTPONED

Mr. Lougheed said due to time constraints, the By-Laws, Planning Functions of Cass County, and Subdivision Enforcement agenda items will be postponed until the next meeting.

Ms. Durand said due to the holidays, the next meeting has been scheduled for 7:00 AM on Thursday, December 10th.

6. ADJOURNMENT

On motion by Mr. Ellig, seconded by Mr. Gust, and all voting in favor, the meeting was adjourned at 8:09 AM.

Minutes prepared by Brielle Edwards, HR Assistant

Cass County Highway Department

Vicinity Map

Mapleton Junction Subdivision

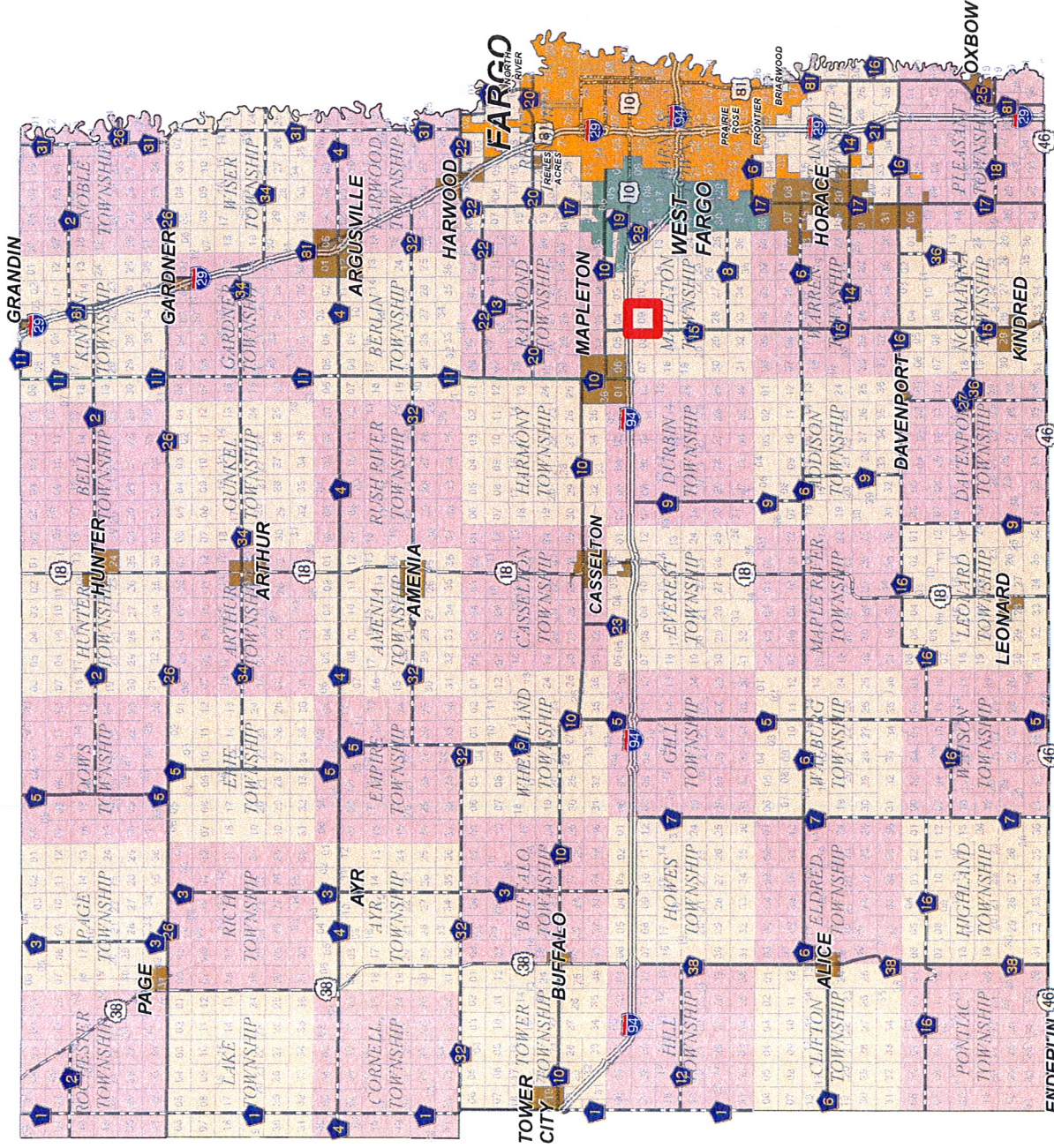
A part of Lot 1,
Block 1, Leo's Subdivision,
Cass County, North Dakota.



Hali A. Durand
County Planner

Cass County Highway Department
1201 Main Avenue West
West Fargo, ND 58078
701-298-2370

Web: <http://www.casscountynd.gov>
Email: highway@casscountynd.gov



Final Plat Report

Title: Mapleton Junction Subdivision

Owner(s): Mapleton Farmland, LP

Applicant: Stefan Olafson

Type of Request: Minor Subdivision (1 lot)

Status: Final Hearing at the December 17, 2015 Planning Commission Meeting

Proposal:

An application for a Minor Subdivision (plat) has been received by the Cass County Planning Office for approval of a tract of land located in a part of Lot 1, Block 1, Leo's Subdivision in Section 9 in Mapleton Township to plat one lot for an accessory site associated with a proposed pipeline and storage tank facility. The said tract contains 1.000 acre of land, more or less.

Staff Analysis:

The subdivision will use a short private road, have no onsite sewer systems, and not utilize a water source. The proposed access will be off County Highway 15. The plat is currently in Zone A based on the Flood Insurance Rate Map.

Agency Comments	
Water Resource District	"It does not appear that the subdivision would impact the right of way for Drain 15 so we wouldn't have any other comments."
Cass County Electric	"CCEC has an existing easement (1949) for our existing pole line along the west side of Section 9 along with an easement for the underground in the NW¼ of Section 9 parallel with the curve of I-94 ramp (document 444018)."
Century Link	"The plat looks fine from Centurylink's standpoint"
City of West Fargo	Concerns were expressed regarding placing a pipeline along a corridor, developing in the future atop a pipeline, and potentially needing to move the pipeline in any way in the future.
Township Chairman	See Findings and Resolution Granting Permits, Approvals, and Variances
Weed Board	See weed control action plan proposal
Public Comment	No public comments to date

Recommendation:

To approve the Final Plat as presented as it meets the goals and objectives of the Cass County Comprehensive Plan, the Cass County Highway Access Plan, the Flood Damage Prevention Ordinance, and the Cass County Subdivision Ordinance.

**FLOODPROOFING CERTIFICATE
FOR NON-RESIDENTIAL STRUCTURES**

OMB No. 1660-0008
Expiration Date: July 31, 2015

The floodproofing of non-residential buildings may be permitted as an alternative to elevating to or above the Base Flood Elevation; however, a floodproofing design certification is required. This form is to be used for that certification. Floodproofing of a residential building does not alter a community's floodplain management elevation requirements or affect the insurance rating unless the community has been issued an exception by FEMA to allow floodproofed residential basements. The permitting of a floodproofed residential basement requires a separate certification specifying that the design complies with the local floodplain management ordinance.

BUILDING OWNER'S NAME Nustar Pipeline Operating Partnership L.P.	
STREET ADDRESS (Including Apt., Unit, Suite, and/or Bldg. Number) OR P.O. ROUTE AND BOX NUMBER 19003 IH-10 West, San Antonio, TX, 78257	
OTHER DESCRIPTION (Lot and Block Numbers, etc.) See attached pipeline exhibits and plot plan	
CITY San Antonio	STATE TX ZIP CODE 78257

SECTION I – FLOOD INSURANCE RATE MAP (FIRM) INFORMATION

Provide the following from the proper FIRM:

COMMUNITY NUMBER	PANEL NUMBER	SUFFIX	DATE OF FIRM INDEX	FIRM ZONE	BASE FLOOD ELEVATION (In AO Zones, Use Depth)
380262	0001	C	January 16, 2015	A	903

Indicate elevation datum used for Base Flood Elevation shown above: ☐ NGVD 1929 ☐ NAVD 1988 ☐ Other/Source: _____

SECTION II – FLOODPROOFING INFORMATION (By a Registered Professional Engineer or Architect)

Elevations are based on: ☒ Construction Drawings ☐ Building Under Construction ☐ Finished Construction

Floodproofing Design Elevation Information:

Building is floodproofed to an elevation of 909.00 feet (In Puerto Rico only: _____ meters). ☐ NGVD 1929 ☒ NAVD 1988 ☐ Other/Source: _____
(Elevation datum used must be the same as that used for the Base Flood Elevation.)

Height of floodproofing on the building above the lowest adjacent grade is _____ feet (In Puerto Rico only: _____ meters).

For Unnumbered A Zones Only:

Highest adjacent (finished) grade next to the building (HAG) 906.00 feet (In Puerto Rico only: _____ meters)

☐ NGVD 1929 ☒ NAVD 1988 ☐ Other/Source: _____

(NOTE: For insurance rating purposes, the building's floodproofed design elevation must be at least 1 foot above the Base Flood Elevation to receive rating credit. If the building is floodproofed only to the Base Flood Elevation, then the building's insurance rating will result in a higher premium.)

SECTION III – CERTIFICATION (By a Registered Professional Engineer or Architect)

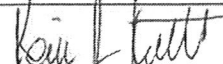
Non-Residential Floodproofed Construction Certification:

I certify that, based upon development and/or review of structural design, specifications, and plans for construction, the design and methods of construction are in accordance with accepted standards of practice for meeting the following provisions:

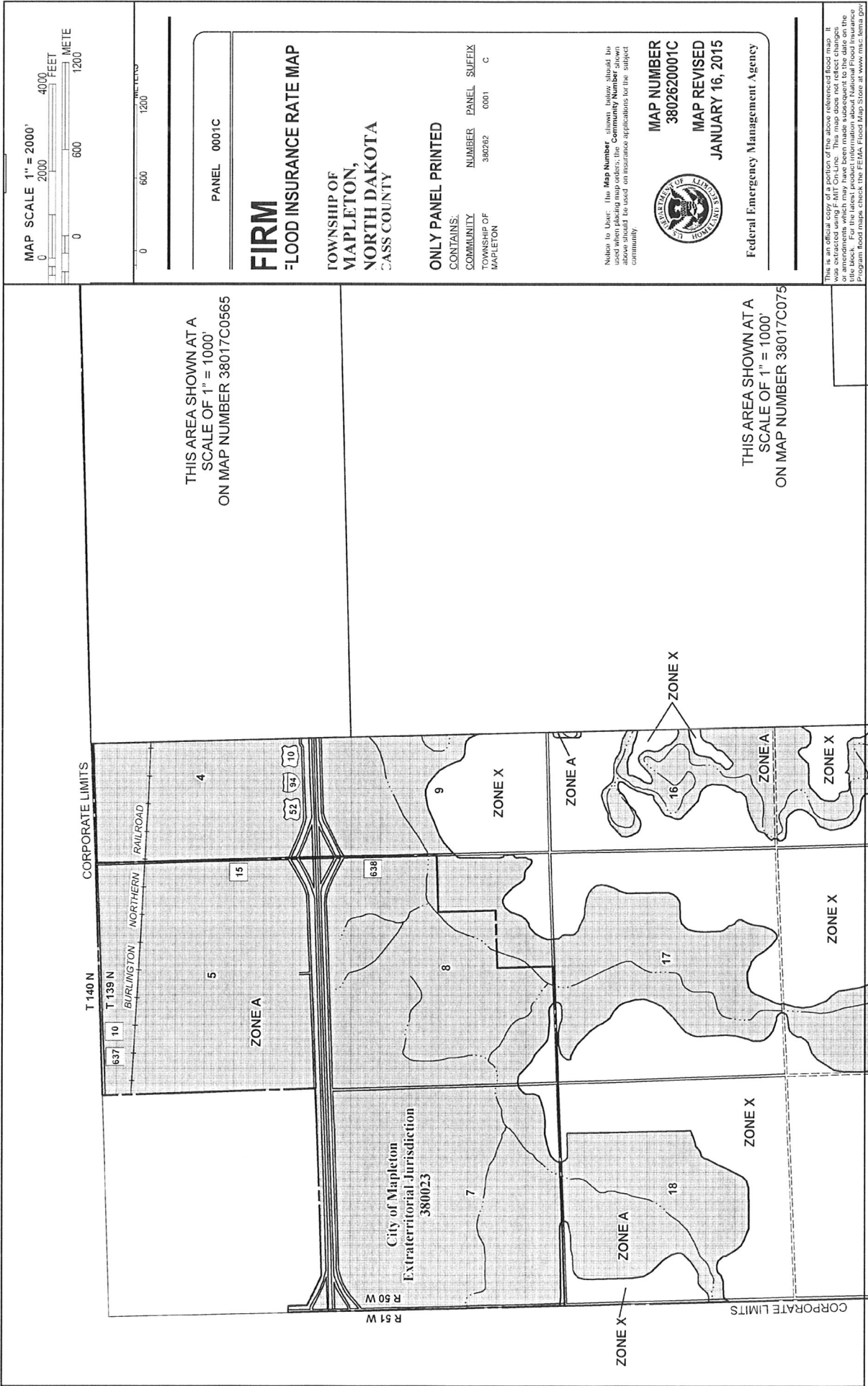
The structure, together with attendant utilities and sanitary facilities, is watertight to the floodproofed design elevation indicated above, with walls that are substantially impermeable to the passage of water.

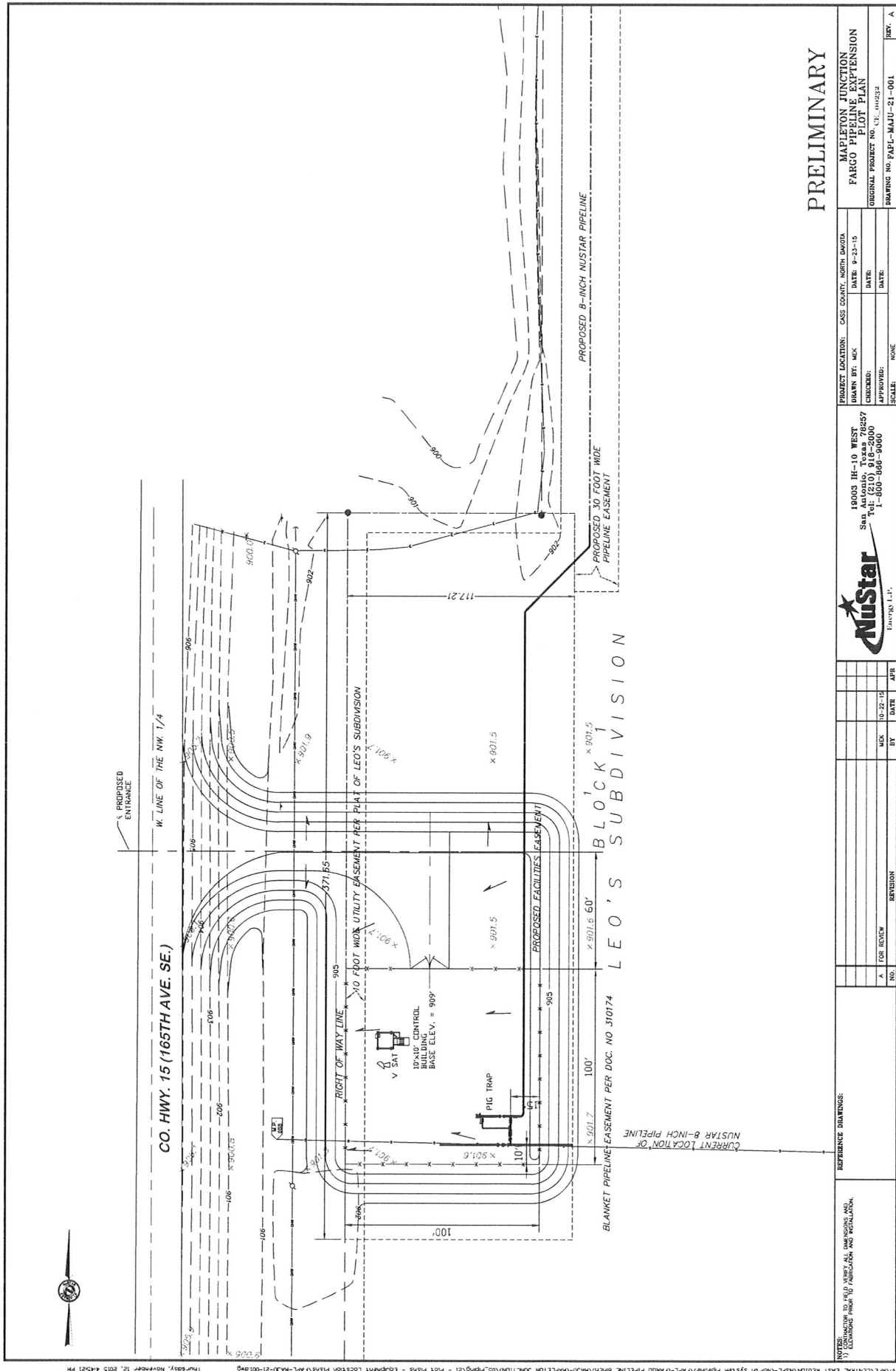
All structural components are capable of resisting hydrostatic and hydrodynamic flood forces, including the effects of buoyancy, and anticipated debris impact forces.

I certify that the information on this certificate represents my best efforts to interpret the data available. I understand that any false statement may be punishable by fine or imprisonment under 18 U.S. Code, Section 1001.

CERTIFIER'S NAME Kevin Knott	LICENSE NUMBER (or Affix Seal) 5679		
TITLE Senior Engineer	COMPANY NAME Ulteig		
ADDRESS 3350 38th Ave S	CITY Fargo	STATE ND	ZIP CODE 58104
SIGNATURE 	DATE 11/18/15	PHONE 701-280-8500	

Copies should be made of this Certificate for: 1) community official, 2) Insurance agent/company, and 3) building owner.





**NORTH DAKOTA
MAPLETON TOWNSHIP
BOARD OF SUPERVISORS**

**NUSTAR PIPELINE OPERATING
PARTNERSHIP L.P.: APPLICATION FOR
PERMITS, APPROVALS, AND VARIANCES FOR
PETROLEUM PRODUCTS PIPELINE**

**FINDINGS AND RESOLUTION GRANTING
PERMITS, APPROVALS, AND VARIANCES**

INTRODUCTION

On November 10, 2015, NuStar Pipeline Operating Partnership L.P. ("NuStar") submitted an application for any and all permits, approvals, and variances required ("Application") for a proposed eight-inch petroleum products pipeline and associated facilities, a portion of which is to be located in Mapleton Township.

On November 24, 2015, the Mapleton Township Zoning Commission and the Mapleton Township Board of Supervisors met to consider the Application. The Mapleton Township Zoning Commission unanimously recommended approval of the Application.

Having heard, reviewed and considered the Application, all information presented regarding the Application, and the Zoning Commission's recommendation, the Mapleton Township Board of Supervisors hereby makes the following:

FINDINGS OF FACT

1. NuStar proposes to construct an eight-inch petroleum products pipeline and associated facilities extending from the proposed Cenex Pipeline, LLC ("Cenex") Fargo Terminal site, located southeast of Prosper, North Dakota in Raymond Township, to NuStar's existing North System Pipeline, located southeast of Mapleton, North Dakota in Mapleton Township. The pipeline and associated facilities are referred to as the Laurel Interconnect Pipeline Project ("Laurel Project").

2. The portion of the Laurel Project in Mapleton Township will consist of the pipeline, and above-ground facilities located on an approximately one-acre site at the southern end of the pipeline, referred to as the Mapleton Junction.

3. In the Application, NuStar provided maps and other documentation, including the following: the pipeline route and above-ground appurtenances; a preliminary plot plan and subdivision plat; names and addresses of owners within a one mile radius of Mapleton Junction; legal descriptions of the tracts to be crossed, including dimensions and shapes; the existing land uses of the subject tracts; the existing zoning classifications of the subject tracts; designs for the

pipeline crossings of township roads; and a typical cross section of the pipeline relative to natural ground. NuStar reserved the right to revise its plans based on completion of final design work.

4. NuStar also submitted in its Application a development/floodplain permit application, floodplain maps showing the pipeline route, and an Additional Information document.

5. NuStar representatives presented information on, and answered questions regarding, the Laurel Project at the November 24, 2015 Mapleton Township meeting.

6. All parcels in Mapleton Township that will be crossed by the Laurel Project are zoned agricultural.

7. In Mapleton Township, NuStar has acquired all easements necessary to construct the pipeline along the proposed route, and has acquired an option to purchase the one-acre site for the Mapleton Junction.

8. NuStar selected the pipeline route and the Mapleton Junction site as a result of a thorough site analysis, as well as coordination with landowners, local officials, agencies, Cenex, and existing infrastructure owners.

9. Based on the Application and information presented, Mapleton Township hereby makes and incorporates all the findings required by the Mapleton Township Zoning Ordinance, and finds NuStar has satisfied all the requirements of the Mapleton Township Zoning Ordinance necessary to grant: a Conditional Use Permit; a Floodplain Development Permit; variances and building permits associated with the Mapleton Junction facilities and site; and any township road-related approvals, such as township road and section line crossings.

10. NuStar has complied with all notice and hearing requirements, and paid all applicable permit fees required for consideration and approval of the Application.

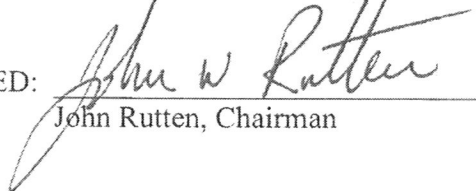
Based on the above Findings of Fact, the Mapleton Township Board of Supervisors hereby adopts the following:

RESOLUTION

1. Mapleton Township hereby grants to NuStar the following permits, approvals, and variances for the Laurel Project: a Conditional Use Permit; a Floodplain Development Permit; variances and building permits associated with the Mapleton Junction facilities and site; and any township road-related approvals, such as township road and section line crossings; and

2. No other permits, certificates, notices, hearings, or approvals from Mapleton Township are required for NuStar to construct, operate, and maintain the Laurel Project.

APPROVED: _____


John Rutten, Chairman

ATTEST: Brian A. Bulfinch
Township Clerk

DATE: 11-24-15

The motion for the adoption of the foregoing resolution was made by Supervisor RUTTEN and duly seconded by Supervisor Folstad. On roll call vote, the following Supervisors voted aye:

Unanimous Approval
The following voted nay: —

The majority of the Board of Supervisors having voted aye, the motion carried and the resolution was duly adopted.

Cass County Weed Control is concerned about noxious and invasive weed control on various construction projects being proposed within the county. Once the ground surface has been disturbed weeds will infest the disturbed areas and if left uncontrolled will establish and infest neighboring lands. All landowners and operators working the land need to control noxious weeds as per state statute NDCC 4.1-47. Cass County Weed Control recommends the following be implemented for construction sites within the county:

A **Weed Control Action Plan** be developed for the construction and development site that will:

1. Monitor all areas of construction, equipment staging, roadways and other areas where topsoil is disturbed for noxious and invasive weed growth.
2. Monitor all undisturbed sites for noxious and invasive weed growth, i.e. former cropland and pasture fields during the construction phase.
3. Contour all dirt stockpile areas so that weed control efforts can be conducted, i.e. spraying, mowing or tillage.
4. Keep non-noxious weed vegetation from flowering and forming seeds by either spraying, mowing, or tillage.
5. Areas reseeded into permanent grass vegetation or trees to be monitored for noxious weed infestations and provide appropriate control efforts to prevent establishment. This will be a yearly effort.
6. All surface applied aggregate products be purchased or sourced from inspected and approved aggregate mining operations stating that noxious weeds are controlled. Inspections are conducted by the County Weed Control Officer.
7. Provide to the County Weed Control Officer the action plan outlining the area and methods of control. Update action plan as needed with consultation with Weed Control Officer and County Extension office.

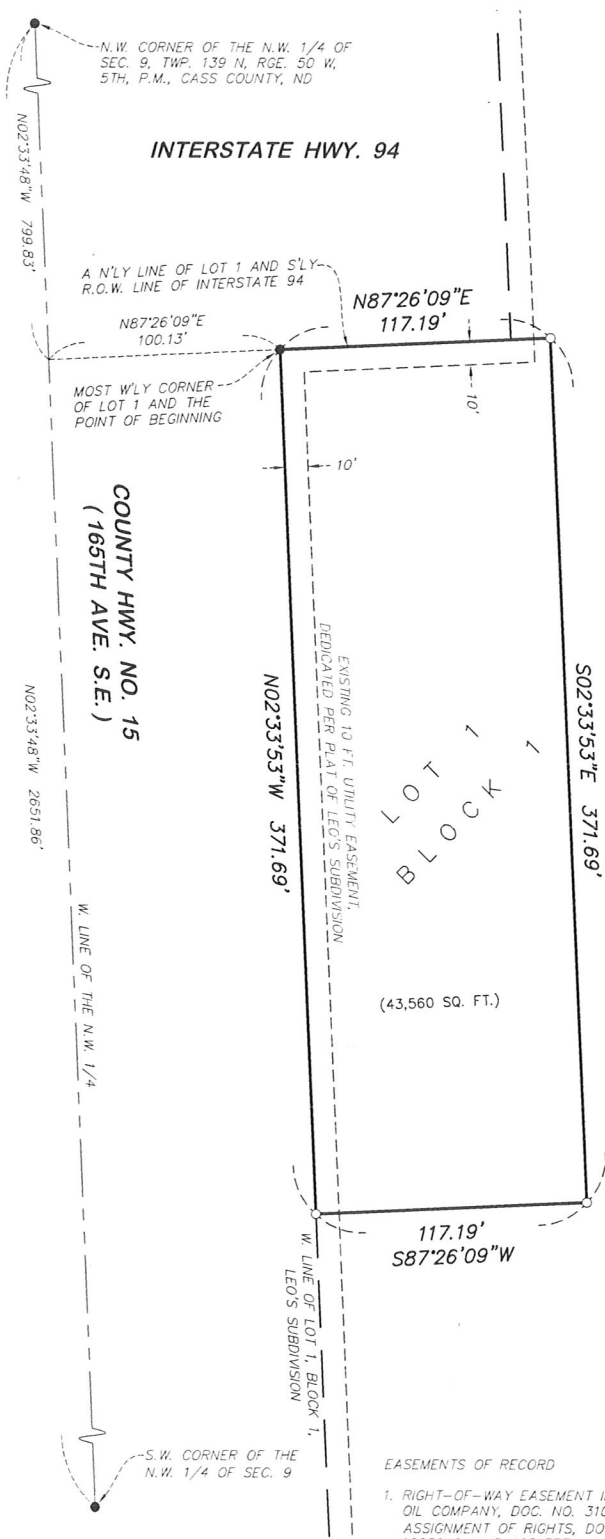
It is also recommended that any private land owners that have land that will be disturbed during the construction project that a weed control action plan be developed and agreed upon that will spell out who is responsible for controlling weeds and for how long in the project area. Also if any areas are to be reseeded into permanent grass cover the seed mix type and source and restoration process be spelled out in writing.

This list may not be all inclusive but is a starting point for discussion with the construction and development entity.

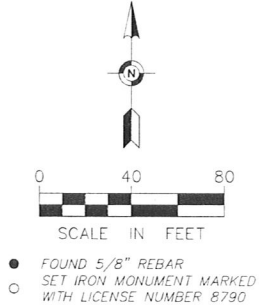
PLAT OF

MAPLETON JUNCTION SUBDIVISION

(A MINOR SUBDIVISION)
A PART OF LOT 1, BLOCK 1, LEO'S SUBDIVISION, CASS COUNTY, NORTH DAKOTA



- EASEMENTS OF RECORD
1. RIGHT-OF-WAY EASEMENT IN FAVOR OF STANDARD OIL COMPANY, DOC. NO. 310174, ALONG WITH ASSIGNMENT OF RIGHTS, DOC. NO.'S 366808, 1025940, AND 1051377.
 2. RIGHT-OF-WAY EASEMENT IN FAVOR OF CASS COUNTY ELECTRIC, DOC. NO. 444018
 3. ACCESS EASEMENT, DOC. NO. 1435179



CERTIFICATE

ERIC A. ROESER, BEING DULY SWORN, DEPOSES AND SAYS THAT HE IS THE REGISTERED PROFESSIONAL LAND SURVEYOR WHO PREPARED AND MADE THE ATTACHED PLAT OF MAPLETON JUNCTION SUBDIVISION, A PART OF LOT 1, BLOCK 1, LEO'S SUBDIVISION, CASS COUNTY, NORTH DAKOTA; THAT SAID PLAT IS A TRUE AND CORRECT REPRESENTATION OF SAID SURVEY; THAT ALL DISTANCES ARE CORRECTLY SHOWN ON SAID PLAT; THAT MONUMENTS HAVE BEEN PLACED IN THE GROUND AS INDICATED FOR THE GUIDANCE OF FUTURE SURVEYS AND THAT SAID SUBDIVISION IS DESCRIBED AS FOLLOWS:

THAT PART OF LOT 1, BLOCK 1, LEO'S SUBDIVISION, DESCRIBED AS FOLLOWS:

BEGINNING AT THE MOST WESTERLY CORNER OF SAID LOT 1; THENCE NORTH 87 DEGREES 26 MINUTES 09 SECONDS EAST, ASSUMED BEARING, ALONG A NORTHERLY LINE OF SAID LOT 1 AND A SOUTHERLY RIGHT OF WAY LINE OF INTERSTATE 94 AND ITS EASTERLY EXTENSION, A DISTANCE OF 117.19 FEET; THENCE SOUTH 02 DEGREES 33 MINUTES 53 SECONDS EAST, A DISTANCE OF 371.69 FEET; THENCE SOUTH 87 DEGREES 26 MINUTES 09 SECONDS WEST, A DISTANCE OF 117.19 FEET TO THE WEST LINE OF SAID LOT 1; THENCE NORTH 02 DEGREES 33 MINUTES 53 SECONDS WEST ALONG SAID WEST LINE, A DISTANCE OF 371.69 FEET TO THE POINT OF BEGINNING.

SAID TRACT CONTAINS 1.000 ACRES, MORE OR LESS, AND IS SUBJECT TO ALL EASEMENTS, RESTRICTIONS AND RESERVATIONS OF RECORD, IF ANY.

ERIC A. ROESER
REGISTERED LAND SURVEYOR
REG. NO. LS-8790

STATE OF MINNESOTA)
COUNTY OF HENNEPIN) SS

THIS _____ DAY OF _____, 2015, BEFORE ME, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE PERSONALLY APPEARED ERIC A. ROESER, REGISTERED PROFESSIONAL LAND SURVEYOR, KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING CERTIFICATE AND ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME AS HIS FREE ACT AND DEED.

NOTARY PUBLIC, HENNEPIN COUNTY, MINNESOTA
MY COMMISSION EXPIRES: _____

DEDICATION

I, THE UNDERSIGNED, DO HEREBY CERTIFY THAT I AM THE OWNER OF THE LAND DESCRIBED IN THE PLAT OF "MAPLETON JUNCTION SUBDIVISION", A PART OF LOT 1, BLOCK 1, LEO'S SUBDIVISION, CASS COUNTY, NORTH DAKOTA; THAT I HAVE CAUSED IT TO BE PLATTED INTO LOTS AND BLOCKS AS SHOWN BY SAID PLAT AND CERTIFICATE OF ERIC A. ROESER, REGISTERED PROFESSIONAL LAND SURVEYOR AND THAT THE DESCRIPTION AS SHOWN IN THE CERTIFICATE OF THE REGISTERED PROFESSIONAL LAND SURVEYOR IS CORRECT. I HEREBY DEDICATE ALL AVENUES AND UTILITY EASEMENTS SHOWN ON SAID PLAT TO THE USE OF THE PUBLIC.

OWNER:

JON L. WANZEK, MANAGING PARTNER
MAPLETON FARMLAND, LP

STATE OF NORTH DAKOTA)
COUNTY OF CASS) SS

ON THIS _____ DAY OF _____, 2015, BEFORE ME, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE PERSONALLY APPEARED JON L. WANZEK, KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING DEDICATION AND ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME AS HIS FREE ACT AND DEED.

NOTARY PUBLIC, _____ COUNTY, _____
MY COMMISSION EXPIRES: _____

REVIEWED BY MAPLETON TOWNSHIP, CASS COUNTY, NORTH DAKOTA, THIS _____ DAY OF _____, 2015

SIGNED: _____ ATTEST: _____

JOHN W. RUTTEN, CHAIRMAN
BRUCE BOLLINGER, CLERK

REVIEWED BY CASS COUNTY ENGINEER THIS _____ DAY OF _____, 2015

SIGNED: _____
JASON BENSON, CASS COUNTY ENGINEER

REVIEWED BY THE CASS COUNTY PLANNING COMMISSION THIS _____ DAY OF _____, 2015

SIGNED: _____ ATTEST: _____

KEN LOUGHEED, CHAIRMAN
SECRETARY

APPROVED BY CASS COUNTY, NORTH DAKOTA, THIS _____ DAY OF _____, 2015

SIGNED: _____ ATTEST: _____
CHAD M. PETERSON, CHAIRMAN, BOARD OF COUNTY COMMISSIONERS
MICHAEL MONTPLAISIR, CASS COUNTY AUDITOR



CASS COUNTY PLANNING COMMISSION BY-LAWS

CASS COUNTY, NORTH DAKOTA

Article I Purpose and Objectives

The purposes and objectives of the Cass County Planning Commission (herein after referred to as the Commission) ~~are any or all of~~ includes the following:

1. To promote health, safety, public convenience, general prosperity, and public welfare.
2. To protect and guide the development of ~~non-urban~~ agricultural areas.
3. To ~~secure safety~~ protect from fire, flood, and other dangers.
4. To regulate and restrict the erection, construction, reconstruction, alternation, or repair, ~~or use of~~ buildings and structures, including the height, ~~number of stories, and size of~~ buildings and structures, ~~the percentage of lot that may be occupied, the size of~~ courtyards and other open spaces, ~~the density of population, and the location and use of~~ buildings, structures, and land for trade, industry, residence, or other purposes.
5. To lessen governmental expenditures.-
6. To conserve and develop natural resources.
7. To exercise the powers conferred upon the Commission by the North Dakota Century Code, and/or County Commission Home Rule Charter.

Article II Membership

~~Section 1.~~ Membership of the Commission shall be composed of nine members. Members shall be appointed as follows:

<u>Member</u>	<u>Appointed By</u>	<u>Term</u>
1 Cass County Commissioner	County Commission	1 year
1 Fargo City Commissioner	City of Fargo	1 year
1 West Fargo City Commissioner	City of West Fargo	1 year
1 County resident	Cass County Township Officers Association	1 year
2 City of Fargo residents	County Commission	4 years
3 Rural County residents *	County Commission	4 years ?

- ☐ ~~1 Cass County Commissioner, appointed by Commission annually.~~
- ☐ ~~1 Fargo City Commissioner, appointed by City annually.~~
- ☐ ~~1 West Fargo City Commissioner, appointed by City annually.~~
- ☐ ~~1 County resident nominated by Cass County Township Officers Association annually.~~
- ☐ ~~2 City of Fargo residents appointed by County Commission.~~
- ☐ ~~3 Rural County residents appointed by County Commission.*~~ These members will not be bound by area or district, but it is recommended that the Commission attempt to appoint 1 person from near North of the Metro Area, 1 person from near South of the Metro Areas, and 1 person from West of the Metro Area.

- a) All appointments to the Commission shall be approved by the Cass County Board of Commissioners.

~~Section 2. Terms of membership are as follows:~~

- a) ~~Members from the County Board, Township Officers Association and City Commissions serve annual appointments.~~

- b) The City of Fargo resident and Rural County residents ~~Remaining members shall serve 4 year terms, except that the initial terms of the 3 rural members should be 2, 3, and 4 years respectively with 4 year terms thereafter.~~

- c) ~~e)~~ Appointment to fill vacancies shall be for the unexpired portion of the term.

- d) ~~Section 3. The Cass County Board of Commissioners shall be informed if any member inexcusably misses three consecutive meetings.~~

Article III Officers

~~Section 1.~~ Officers of the Commission, their duties, and tenures are as follows:

- a) ~~Chairman~~ - shall preside at all meetings, call special meetings, sign any documents in the name of the Commission, appoint committees or committee members for specific functions and to see that all actions of the Commission are properly taken. The Chairman shall be elected by the Commission membership for a period of one calendar year, each election taking place as the first item of business during the first meeting of each calendar year following approval of annual appointments to the Commission.

- b) ~~Vice-Chairman~~ - who in the event of absence, disability or disqualification of the Chairman, shall exercise or assume all the duties and responsibilities of the Chairman. Election of Vice-Chairman shall take place at the same time and in the same way as that of the Chairman.

- c) ~~Secretary~~ - shall be responsible for recording and keeping the minutes of all Commission meeting, acting as custodian for all Commission records, and handling all funds allocated to the Commission. The County Auditor is required by Section II-33-05 of the North Dakota Century Code to serve as secretary of the Commission.

- d) ~~County Planner~~ - shall be responsible for serving all notices required by the Commission, preparing an agenda for all Commission meetings, informing the Commission of correspondence requiring Commission decisions, and attending to such correspondence. In addition, the County Planner shall conduct research and submit reports required by the Commission, and shall advise and recommend on any petition, request, or application being considered by the Commission.

- e) ~~State's Attorney~~ - shall be responsible for providing legal counsel to the Commission.

Article IV Meetings

- a) ~~Section 1.~~—The regular meeting of the Commission shall be held on the first Thursday of each calendar month; the second Thursday of each calendar month shall serve as the alternative date should any meeting not be held on the first Thursday. —All meetings shall be in the Cass County Courthouse. —Any regular meeting may be adjourned to a different date, time or location as long as such date, time or location is specified and approved by a majority vote of a quorum of members. —Each Commission member shall receive notice and an agenda for a regular meeting to be mailed not less than four days prior to the regular meeting date by the County Planner.
- b) ~~Section 2.~~—Special Meetings may be called as needed by the Chairman or Vice-Chairman with a minimum of 24 hours notice to the rest of the membership.
- c) ~~Section 3.~~—~~A~~All meetings held by the Commission shall be open to the public.

Article V Quorum

At any meeting of the Commission, a quorum shall consist of the simple majority of the Commission. —No action shall be taken in the absence of a quorum, except to adjourn the meeting.

Article VI Order of Business

~~Section 1.~~—The order of business for regular meeting shall be:

- a) Call to order by the Chairman or Vice-Chairman
- b) Roll Call
- c) Determination of a quorum
- d) Minutes of the previous meeting
- e) Old and new business
- f) Correspondence
- g) Adjournment—

~~Section 2.~~—All items of business considered at any meeting, with the exception of general administrative or policy discussion, must be specified on the agenda. Any additions to the agenda must be approved by the County Planner.

Article VII Rules of Procedure

All meetings of the Commission shall be conducted in accordance with Robert's Rules of Order.

Article VIII Miscellaneous Powers and Duties of the Commission

The Commission may:

- a) Recommend, consult with, and advise appropriate public officials and agencies, public utilities, land developers, civic, educational, professional, and other organizations, and with citizens relative to programs, improvements, and financing necessary to the implementation of adopted planning policies.
- b) Employ such means of publicity and education as is necessary to promote public interest in and understanding of adopted planning policies.
- c) Accept and use gifts for the exercise of its functions.
- d) By its members, officers, and employees, in the performance of their functions, enter upon any land and make examinations of any surveys thereof.
- e) Exercise such other powers as may be necessary to enable it to fulfill its functions and to carry out the provisions of the North Dakota Century Code.

Article IX Amendments

These by-laws may be amended at any meeting of the Planning Commission by a simple majority of a quorum provided that notice of any proposed amendment is mailed to each member in writing at least five days prior to said meeting.

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MISSION STATEMENT

To enhance the overall quality of life in Cass County through proactive growth management.

PLANNING GOALS IN SUPPORT OF MISSION

1. To manage growth by influencing the primary characteristics of growth: rate, amount, type, location, and quality.
2. To ensure that, if adequate infrastructure is not currently in place to accommodate growth, the supporting infrastructure is provided by the development.
3. To ensure Cass County's resources are used in a manner to provide the greatest long-term benefits to the citizens of Cass County as a whole.
4. To maintain a current Comprehensive Land Use Policy Plan and the tools to implement the plan. The plan is to be used as the County's primary planning policy.
5. To preserve Cass County's natural resources and natural environment.

COUNTY PLANNING ORGANIZATION



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PLANNING ORGANIZATION AND RESPONSIBILITIES

Cass County Board of Commissioners: Responsible for exercising all powers conveyed to it by the North Dakota Century Code including, but not limited to: restricting the use of buildings and structures and the use, condition of use, or occupancy of lands for residence, recreation, and other purposes. The County Board of Commissioners will not act on subdivision requests without hearing recommendations by both the County Planning Commission and the Township Board of Supervisors. Ultimate planning authority lies with the County Board of Commissioners.

Cass County Planning Commission: ~~The Planning Commission~~ sServes as an advisory board to the ~~County Board of Commissioners~~. ~~The Planning Commission regulates the subdivision of land. All subdivision applications and other planning issues will be referred to, and receive recommendations from, the Planning Commission prior to being placed on the County Commission agenda.~~

Cass County Engineer: ~~The County Engineer~~ sServes as department head for the county planning staff and planning activities. The County Engineer reports to the ~~County Board of Commissioners~~. The County Engineer works in cooperation with the Planning Commission.

Cass County Planner: ~~The County Planner is t~~The primary staff member in the planning organization. The County Planner reports to the County Engineer. The County Planner works in cooperation with the Planning Commission.

Townships Board of Supervisors: Townships ~~also have the authority to regulate land use and~~ ~~Townships currently regulate administer zoning conveyed to it by the North Dakota Century Code.~~ The County regulates subdivision of land. ~~The century code empowers townships with zoning authority and further specifies that townships may relinquish this authority to the County. With zoning authority, townships assume the responsibility for zoning. Unless a township relinquishes its authority, the County relies on townships to properly regulate land use and administer zoning. The Township Board of Supervisors work in cooperation with the County. and townships work in cooperation to regulate land use.~~

Small CitiesMunicipalities: Municipalities have the authority to regulate the subdivision of land and administer zoning conveyed to it by the North Dakota ~~The e~~Century ~~e~~Code. ~~empowers cities with zoning and subdivision authority. The century code further specifies that municipalities may relinquish this authority to the County. Unless a municipality relinquishes its authority, the County relies on municipalities to properly regulate subdivision of land and administer zoning. The County has no zoning or subdivision authority within cities unless the city chooses to relinquish its authority to the County. With~~

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~~zoning and subdivision authority, cities assume this responsibility. Unless a city relinquishes its authority, the County relies on cities to properly administer zoning and subdivision regulation. Municipalities The County and cities work in cooperation with the County to properly regulate land use.~~

PLANNING ACTIVITIES AND FUNCTIONS

The planning organization ~~should~~ shall focus its efforts on those activities necessary to achieve the County's mission and goals. ~~County~~ Planning funds should be expended on activities that benefit the County as a whole. Planning activities in support of an individual or a small group of individuals, such as subdivision review, should charge sufficient fees to generally cover all associated county costs.

Planning activities include:

1. Maintain a current Comprehensive Land Use Policy Plan to be used as the County's primary planning policy.
2. Maintain current subdivision regulations.
3. Review and approve/disapprove subdivision applications. Appropriate fees to be charged to recover county costs involved with subdivisions.
4. Provide training and educational opportunities for townships and small ~~cities~~ municipalities in planning.
5. Provide assistance to the Fargo-Cass County Economic Development Corporation in evaluating perspective sites for economic development.
6. Provide assistance to townships and small ~~cities~~ municipalities in updating their comprehensive plans and zoning ordinances.
7. Participate in special planning projects.
8. Hear appeals on orders or determinations of the Health Officer or designated officer related to Cass County on-site septic regulations.

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SUBDIVISION APPLICATION FEES

SUBDIVISION FEE SCHEDULE

MINOR SUBDIVISION FEE SCHEDULE		
Lots/Units	Base Fee	Minor Subdivision
1 to 4	\$50.00 \$100.00	\$35.00 each lot/unit

MAJOR SUBDIVISION FEE SCHEDULE	
Lots/Units	Major Subdivision
5 to 12	\$500.00 \$450.00
13+	\$650.00 \$600.00

HISTORICAL REFERENCE DATE: MAY 3, 1993

NOTICE OF VIOLATION

Cass County Planning Office
1201 Main Avenue West
West Fargo, ND 58078



Phone: 701-298-2375
Fax: 701-298-2395
<http://www.casscountynd.gov>

Section:

1. Purpose
2. Regulations
3. Notice of Violation
4. Response by Owner
5. Opportunity to Present Evidence
6. Action by County Planner

Section 1. Purpose

The purpose of this section is to provide for Notice of Violation(s) of the Cass County Subdivision Ordinance.

Section 2. Regulations

Section 906 Penalties and Violations of the Cass County Subdivision Ordinance.

Any person, partnership, corporation, or limited liability company who or which, being the owner or agent of the owner of any lot, tract, or parcel of land, shall lay out, construct, open, or dedicate any street, sanitary sewer, storm sewer, water main, or other improvements for public use, travel, or other purposes or for the common use of occupants of buildings abutting thereon, or who or which sells, transfers, or agrees or enters into an agreement to sell or transfer any land in a subdivision or engages in the subdivision of land or erects any buildings thereon, in violation of any provision of the Cass County Subdivision Ordinance shall be guilty of a Class B Misdemeanor, with a maximum penalty of thirty (30) days imprisonment, a fine of one thousand 1,000) dollars, or both.

Each lot, tract, or parcel created or transferred and each building erected in a subdivision in violation of this Ordinance shall constitute a separate offense.

The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the seller or transferor from such penalties or from the remedies therein provided.

A county auditor's plat made pursuant to North Dakota Century Code 57-02-39 is for taxation purposes for convenience of tax officials in describing property on tax rolls and does not confer rights in or transfer title to land. Therefore, this "platting" of Auditor's Lots is not "platting" pursuant to this Ordinance. Thus, an Auditor's Lot is not approved by the County for sale or development.

906.01 In addition to the penalties imposed in the event of violations, the Planning Commission may also institute and maintain appropriate legal proceedings in law or in equity before any Court of competent jurisdiction to restrain, correct, or abate violations including but not limited to, requiring compliance with all applicable provisions of this Ordinance, including the requirement of submitting the plans in compliance with the provisions of this Ordinance to prevent unlawful construction, to recover damages and to prevent illegal occupancy of a building, structure, or premises.

906.02 If any lot, tract, or parcel of land is subdivided, the proper county authorities or any affected citizen or property owner, may also institute any appropriate action or proceedings in addition to other remedies to:

- A. Prevent such unlawful subdivision and related erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use.
- B. Restrain, correct, or abate such violations.
- C. Prevent the occupancy or use of the building, structure, or land which has been unlawfully subdivided.
- D. Prevent any illegal act, conduct, business, or use in or about such premises.
- E. To vacate and nullify any recorded plat of such unlawful subdivision.

906.03 No deeds shall be executed or recorded for lots, nor shall the construction of any structure be initiated, before the Board of County Commissioners has approved the Final Plat and such Plat is filed with the Cass County Recorder of Deeds.

906.04 Upon discovery of an alleged violation, the Planning Commission shall notify the township in which the affected property is located of the unlawful action and may request that the municipality refuse to issue any permit or grant any approval necessary to further improve or develop any real property held in violation of the requirements of this Ordinance.

906.05 No approval shall be granted to any subsequent phases of a development until all outstanding violations are abated and the project is in full compliance with the standards and conditions of this Ordinance.

NOTICE OF VIOLATION

Cass County Planning Office
1201 Main Avenue West
West Fargo, ND 58078



Phone: 701-298-2375
Fax: 701-298-2395
<http://www.casscountynd.gov>

Section 3. Notice of Violation

Whenever the County Planner finds a violation of the Cass County Subdivision Ordinance has occurred, he/she shall cause to be mailed, to the then current owner of record of the property, a Notice of Violation. Said Notice of Violation shall contain the following:

- A. Property Description. A description of the real property;
- B. Record Owner. The name(s) and address(es) of the owner(s) of record;
- C. Violations. A description of the violation(s) alleged;
- D. Explanation. An explanation as to why the subject parcel is not lawful under the relevant ordinance; and
- E. Corrective Action(s). A description of the issues that need to be corrected to avoid further prosecution including being guilty of a Class B Misdemeanor, with a maximum penalty of thirty (30) days imprisonment, a fine of one thousand dollars (\$1000), or both.

Section 4. Response by Owner

Within twenty-one (21) days of mailing the Notice of Violation described herein, the property owner(s) of record shall inform the County Planner in writing of his/her response to the Notice of Violation.

Section 5. Opportunity to Present Evidence

Based on the Corrective Action(s), the owner(s) of the property shall be given the opportunity to present any evidence relevant to show why a Notice of Violation should not be issued.

Section 6. Action by County Planner

After the owner has had the opportunity to present evidence, the County Planner shall take either of the following actions:

- A. Clearance Letter. Determine that there has been no violation and mail a clearance letter to the then current owner(s) of record; or
- B. Notice of Penalty. Determine that the property has been found in violation and mail a Notice of Penalty to the then current owner(s) of record.

Property Description:	
Record Owner(s):	
Violation(s):	
Explanation:	
Corrective Action(s):	

Acknowledgement: We hereby acknowledge that that the above information is true and complete to the best of our knowledge and that the primary contact named above will be contacted if any questions arise and when the plat has been approved and appropriate copies are ready for recording.

County Planner

Date:

Cass County Planning Commission Chair

Date:

